

Further misbranding, Section 502 (b) (1) and (2), each of the articles failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and none of the articles bore a label containing statements of the quantity of the contents.

DISPOSITION: The defendant filed a motion for dismissal of the indictment and for an order subjecting the grand jurors, the district attorney, and the stenographers to examination under oath, in open court, as to the grand jury proceedings. This motion was overruled on February 12, 1952. The defendant then entered a plea of not guilty, and on September 22, 1952, the case came on for trial before the court and jury. The trial was concluded on September 30, 1952, with the return by the jury of a verdict of guilty on the count relating to the drug which consisted of a muddy, black aqueous liquid containing plant extractives, and a verdict of not guilty on the remaining 11 counts relating to the other drugs. On January 12, 1953, the court sentenced the defendant to 1 year in jail. An appeal was taken by the defendant to the United States Court of Appeals for the Seventh Circuit and was dismissed on April 22, 1953, because of the defendant's failure to perfect his appeal.

4087. Misbranding of amphetamine sulfate tablets and Seconal Sodium capsules. U. S. v. Thrifty Drug Stores Co., Inc., and Leonard Royce. Pleas of nolo contendere. Each defendant fined \$500 and placed on probation for 3 years. (F. D. C. No. 34317. Sample Nos. 19161-L, 35013-L.)

INFORMATION FILED: December 30, 1952, District of Minnesota, against Thrifty Drug Stores Co., Inc., Rochester, Minn., and Leonard Royce, vice president and pharmacist for the corporation.

ALLEGED VIOLATION: On or about May 14 and June 19, 1951, while a number of *amphetamine sulfate tablets* and *Seconal Sodium capsules* were being held for sale at Thrifty Drug Stores Co., Inc., after shipment in interstate commerce, the defendants caused various quantities of such drugs to be repacked and dispensed without a physician's prescription, which acts resulted in the repackaged drugs being misbranded.

NATURE OF CHARGE: Misbranding, Section 502 (b) (1) and (2), the repackaged drugs failed to bear labels containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; and, Section 502 (f) (1), the labeling of the repackaged drugs failed to bear adequate directions for use.

Further misbranding, Section 502 (d), the repackaged *Seconal Sodium capsules* contained a chemical derivative of barbituric acid, which derivative has been found to be, and by regulations designated as, habit forming; and the label of the capsules failed to bear the name, and quantity or proportion of such derivative and in juxtaposition therewith the statement "Warning—May be habit forming."

Further misbranding, Section 502 (e) (1), the repackaged drugs failed to bear labels containing the common or usual name of the drugs; and, Section 502 (f) (2), the repackaged *amphetamine sulfate tablets* failed to bear labeling containing adequate warnings against use in those pathological conditions where their use may be dangerous to health, and against unsafe dosage and methods and duration of administration, in such manner and form, as are necessary for the protection of users.

DISPOSITION: May 1, 1953. Pleas of nolo contendere having been entered, the court fined each defendant \$500 and placed each on probation for 3 years.